Any number of design professionals tell me their tales of woe about slow-pay and no-pay clients they've had to take to small-claims court. I used to be sympathetic about their plight; no more, because design professionals who have to take their clients to small-claims court have not bothered to learn about risk management. There's just no excuse for that.

First of all, accepting a slow-pay or no-pay client almost always means that a design professional did little or nothing to qualify the client to begin with. "But it was just a quick little project," I hear. But don't you know that project risk is *inversely* proportional to project size and complexity?

Second, using small-claims court for collection purposes just screams that the design professional doesn't know that using litigation to collect a debt is the most common trigger to a negligence claim, a situation that's remained unchanged for almost the last four decades.

Let's talk about the first point, qualifying the new client: Ask, "Whom have you previously retained for this service? Why aren't you retaining them now?" Beware the response "philosophical differences." It usually means the former consultant believed in being paid and the client believes in not paying. Also beware of a preference to not respond. It usually means the same thing, but the client doesn't want you to contact the prior consultant to learn the truth.

If the client does identify a prior consultant, contact the firm before accepting the engagement. And speak with other peers, colleagues, and business associates, too. A $1,000 fee can easily create a $1 million liability that lasts for as long as you live. And then some.

Some consultants don't ask qualifying questions and justify that foolishness by saying, "We don't want to embarrass the client." What a crock! They don't want to embarrass

themselves. Private-sector clients commonly live off OPM – other peoples' money – and, to get it, they have to demonstrate their creditworthiness. They have *pro formas* at the ready showing their income sources and how they intend to repay whatever loan they're able to obtain. And you should hear the questions they ask when someone approaches them with an offer! Look: You're in business. You need to conduct your business at least as well as you perform your professional services. Given the liability you accept when you accept a project, you have a right to inquire. And a *need* to inquire.

"I know I need to, John, but the fee is so small, I just can't justify spending an hour with client representatives to learn more about their backgrounds."

Wake up! For liability reasons alone, you can't afford to *not* invest an hour. But there's more to it than that: Sitting down with a client representative – especially a new client representative – is the professional thing to do and so gives you an opportunity to demonstrate what being a professional is all about. It also gives you the opportunity to establish rapport with a client representative, so you can work things out if something goes wrong, and obtain referrals and additional engagements when things go right. If a project doesn't give you the opportunity to initiate service in a professional manner, decline it. Sooner or later your bad habits will get you into trouble and you'll end up in…small-claims court, or worse.

The other big problem with small-claims court: It causes the dispute to expand. The typical scenario: You sue the client for payment and the client uses the money it owes you to retain a lawyer who engages a hired-gun expert willing to aver you were negligent and, because of that negligence, caused the client thousands of dollars in damages. Old news: Litigation and the threat of litigation, in small-claims court or elsewhere, is the number-one cause of negligence claims against design professionals. Some design professionals nonetheless believe they are immune, like the ASFE member firm that was successful in small-claims court 60 times in a row. Then came number 61. The member firm sued to collect $1,200. Ultimately, the firm wound up collecting $16,000, which

would have been great were it not for the fact that it had to spend more than $100,000 to do so.

ASFE advises that firm representatives should always meet face-to-face with the representatives of new clients, to learn more about the client and to offer a more effective scope of service that considers the client's and client representative's needs and preferences.

During the meeting, ask qualifying questions, such as those we've mentioned and, later, contact others to learn more or at least reconfirm what you've been told.

To facilitate small projects, accept credit cards. Although it costs a few dollars to do so, the amount is tiny in light of the benefits it provides. The credit card company has performed a credit check for you, and usually you get paid in 48 hours. Instead of issuing an invoice you issue a receipt, and you only do it once. Given the $50-$150 cost of issuing and tracking just one bill, issuing two or three on a small project can turn the project into a loser. And using credit cards makes it far less likely that the client will sue, in part because you've already been paid, so the client can't use your money to retain a lawyer.

If you take the time to learn the lessons of history, you will no longer be condemned to repeating mistakes of the past. And your time investment will be well-compensated: Repeating mistakes of the past is expensive!